

was sent, the procedures of the Debt Collection Act may be invoked (14 CFR 1261.407–1261.409). These procedures include three written demand letters at not more than 30-day intervals, disclosure to a consumer reporting agency, and the use of a collection agency, where appropriate.

Subpart 8—Failure To Release Records to the Public

§ 1206.800 Failure to release records to the public.

(a) Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the FEDERAL REGISTER under § 1206.200(a) and not so published.

(b) A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied upon, used, or cited as precedent by NASA against any member of the public only if it has been indexed and either made available or published as provided by § 1206.200(b) or if the member of the public has actual and timely notice of the terms thereof.

(c) Failure to make available an Agency record required to be made available under this part could provide the jurisdictional basis for a suit against NASA under 5 U.S.C. 552(a)(4) (B) through (G), which provides as follows:

(B) On complaint, the District Court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the Agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the Agency from withholding Agency records and to order the production of any Agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of such Agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the Agency to sustain its action.

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within 30 days after

service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

[(D) Repealed. Pub. L. 98-620, Title IV, 402(2), Nov. 8, 1984, 98 Stat. 3335, 3375.]

(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any Agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether Agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Counsel shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Special Counsel, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the Agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Counsel recommends.

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member.

Subpart 9—Annual Report

§ 1206.900 Requirements for annual report.

On or before February 1 of each year, NASA shall submit a report covering the preceding fiscal year to the Department of Justice.

PART 1207—STANDARDS OF CONDUCT

Subpart A—General Provisions

Sec.

1207.101 Cross-references to ethical conduct, financial disclosure, and other applicable regulations.

1207.102 Waiver of prohibition in 18 U.S.C. 208.

1207.103 Designations of responsible officials.

§ 1207.101

Subpart B—Post-Employment Regulations

1207.201 Scope of subpart.

1207.202 Exemption for scientific and technological communications.

AUTHORITY: 5 U.S.C. 7301; 18 U.S.C. 207-208; 42 U.S.C. 2473(c)(1); 5 CFR 2635.102(b); 5 CFR part 2637; 5 CFR part 2640.

SOURCE: 52 FR 22755, June 16, 1987, unless otherwise noted.

Subpart A—General Provisions

§ 1207.101 Cross-references to ethical conduct, financial disclosure, and other applicable regulations.

Employees of the National Aeronautics and Space Administration (NASA) should refer to the executive branch-wide Standards of Ethical Conduct at 5 CFR part 2635, the NASA regulation at 5 CFR part 6901 which supplements the executive branch-wide standards with respect to prohibitions and prior approval requirements applicable to certain outside employment activities, the Office of Personnel Management provisions on employee responsibilities and conduct at 5 CFR part 735, and the executive branch-wide financial disclosure regulation at 5 CFR part 2634.

[59 FR 49338, Sept. 28, 1994]

§ 1207.102 Waiver of prohibition in 18 U.S.C. 208.

(a) *Prohibition.* Employees are prohibited by criminal statute, 18 U.S.C. 208(a), from participating personally and substantially in an official capacity in any particular matter in which, to their knowledge, they, or any person whose interests are imputed to them under the statute, have a financial interest, if the particular matter will have a direct and predictable effect on that interest.

(b) *Specific waiver available.* A NASA employee may request a waiver of this prohibition. NASA may grant a specific waiver of the prohibition only if the Agency determines that the employee's financial interest is not so substantial as to be deemed likely to affect the integrity of the employee's services. The waiver must be obtained before the employee participates in the matter.

(c) *Officials authorized to make waiver determinations.* (1) For the employees

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listed below, waivers must be approved by the Administrator or Deputy Administrator. No further delegation is authorized.

(i) Employees who are required by 5 CFR 2634.202 to file Public Financial Disclosure Reports;

(ii) Employees who are appointed under authority of section 203(c)(2) ("NASA Excepted Positions") or section 203(c)(10) ("Alien Scientists") of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2473(c)(2) and 2473(c)(10));

(iii) Astronauts and astronaut candidates;

(iv) Chief Counsel; and

(v) Procurement Officers.

(2) For all other Headquarters employees, the Associate Administrator for Headquarters Operations may approve waivers of 18 U.S.C. 208. This authority may not be redelegated.

(3) For all other Center employees, the Center Director or Deputy Center Director may approve waivers of 18 U.S.C. 208. This authority may not be redelegated.

(d) *Procedures for specific waiver.* The employee's request for a waiver must be in writing. The request must describe the particular matter involved, the relevant duties of the employee, and the exact nature and amount of the disqualifying financial interest.

(1) *Headquarters employees.* (i) Those Headquarters employees described in paragraph (c)(1) of this section must submit their requests to the Official-in-Charge of the Headquarters office in which they are employed and to the General Counsel for concurrence. The Official-in-Charge will then submit the request to the Administrator with recommendations on the proposed waiver.

(ii) Other Headquarters employees must submit their requests to the Associate General Counsel (General) for concurrence, and to the Associate Administrator for Headquarters Operations for approval.

(2) *Center employees.* (i) Those Center employees described in paragraph (c)(1) of this section must submit their requests to the Center Chief Counsel for concurrence and then to the Director of the Center where they are employed. The Center Director will provide the request, with recommendations, to the

appropriate Enterprise Associate Administrator and to the General Counsel for review and submission to the Administrator.

(ii) Other Center employees must submit their requests to the Center Chief Counsel for concurrence, and then to their Center Director or Deputy Center Director for approval.

(3) Copies of approved waivers must be forwarded to the Associate Administrator for Human Resources and Education, the General Counsel, and the Office of Government Ethics.

(e) *Cross-references.* For regulations concerning general waiver guidance and exemptions under 18 U.S.C. 208, see 5 CFR part 2640.

[66 FR 59137, Nov. 27, 2001]

§ 1207.103 Designations of responsible officials.

(a) *Designated Agency Ethics Official.* The General Counsel of NASA is the Designated Agency Ethics Official and is delegated the authority to coordinate and manage NASA's ethics program as set forth in 5 CFR 2638.203.

(b) *Alternate Designated Agency Ethics Official.* The Associate General Counsel (General) is the Alternate Designated Agency Ethics Official.

(c) *Deputy Ethics Officials.* The following officials are designated as Deputy Ethics Officials:

- (1) The Deputy General Counsel;
- (2) The Associate General Counsel (General);
- (3) The Senior Ethics Attorney assigned to the Associate General Counsel (General); and
- (4) The Chief Counsel at each NASA Center and Component Facility.

(d) *Agency Designee.* As used in 5 CFR part 2635, the term "Agency Designee" refers to the following:

- (1) For employees at NASA Headquarters, or for matters affecting employees Agencywide, the Associate Deputy Administrator, the Designated Agency Ethics Official, the Alternate Designated Agency Ethics Official, or the Chief of Staff; and
- (2) For Center employees, the Center Director, who may delegate specific responsibilities of the Agency Designee to the Center Chief Counsel or to another official who reports directly to the Center Director.

(e) *Cross-references.* For regulations on the appointment, responsibilities, and authority of the Designated Agency Ethics Official, Alternate Designated Agency Ethics Official, and Deputy Ethics Officials, see 5 CFR part 2638. For the responsibilities of the Agency Designee, see 5 CFR part 2635.

[66 FR 59138, Nov. 27, 2001]

Subpart B—Post-Employment Regulations

SOURCE: 54 FR 4003, Jan. 27, 1989; 55 FR 9250, Mar. 12, 1990, unless otherwise noted. Redesignated at 59 FR 49338, Sept. 28, 1994.

§ 1207.201 Scope of subpart.

This subpart provides guidance to former NASA government employees who are subject to the restrictions of Title V of the Ethics of Government Act of 1978, as amended, and who want to communicate scientific or technical information to NASA.

§ 1207.202 Exemption for scientific and technological communications.

(a) Whenever a former government employee who is subject to the constraints of post-employment conflict of interest, 18 U.S.C. 207, wishes to communicate with NASA under the exemption in section 207(j)(5) for the making of a communication solely for the purpose of furnishing scientific or technological information, he or she shall state to the NASA employee contracted, the following information:

(1) That he or she is a former government employee subject to the post employment restrictions of 18 U.S.C. 207 (a), (c), or (d)—specify which;

(2) That he or she worked on certain NASA programs—enumerate which; and

(3) That the communication is solely for the purpose of furnishing scientific or technological information.

(b) If the former government employee has questions as to whether the communication comes within the scientific and technological exemption, he or she should contact the General

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Counsel, the designated agency ethics official.

[54 FR 4003, Jan. 27, 1989; 55 FR 9250, Mar. 12, 1990. Redesignated and amended at 59 FR 49338, Sept. 28, 1994]

PART 1208—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

AUTHORITY: Sec. 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, 84 Stat. 1894 (42 U.S.C. 4601) as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, Title IV of Pub. L. 100-17, 101 Stat. 246-256 (42 U.S.C. 4601 note).

§ 1208.1 Uniform Relocation Assistance and Real Property Acquisition.

Regulations and procedures for complying with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 84 Stat. 1894, 42 U.S.C. 4601), as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Title IV of Pub. L. 100-17, 101 Stat. 246-255, 42 U.S.C. 4601 note) are set forth in 24 CFR part 24.

[52 FR 48017, Dec. 17, 1987 and 54 FR 8912, Mar. 2, 1989]

PART 1209—BOARDS AND COMMITTEES

Subparts 1-2 [Reserved]

Subpart 3—Contract Adjustment Board

Sec.

- 1209.300 Scope.
- 1209.301 Authority.
- 1209.302 Establishment of Board.
- 1209.303 Functions of Board.
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Subpart 4—Inventions and Contributions Board

- 1209.400 Scope.
- 1209.401 Establishment.
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- 1209.404 Membership.
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Subparts 1-2 [Reserved]

Subpart 3—Contract Adjustment Board

AUTHORITY: Pub. L. 85-804 and 42 U.S.C. 2473(c)(1).

SOURCE: 51 FR 28924, Aug. 13, 1986, unless otherwise noted.

§ 1209.300 Scope.

This subpart continues in effect the Contract Adjustment Board (hereinafter referred to as “the Board”) to consider and dispose of requests for extraordinary contractual adjustments by contractors of the National Aeronautics and Space Administration (hereinafter referred to as NASA).

§ 1209.301 Authority.

(a) The Act of August 28, 1958 (50 U.S.C. 1431-35) (hereinafter referred to as “the Act”), empowers the President to authorize departments and agencies exercising functions in connection with the national defense to enter into contracts or into amendments or modifications of contracts and to make advance payments, without regard to other provisions of law relating to the making, performance, amendment, or modification of contracts, whenever the President deems that such action would facilitate the national defense.

(b) Executive Order No. 10789, dated November 14, 1958 (23 FR 8897), authorizes the Administrator, NASA, to exercise the authority conferred by the Act and to prescribe regulations for the carrying out of such authority.

(c) Federal Acquisition Regulation (FAR), part 50, April 1, 1985, and NASA/FAR Supplement 84-2, part 18-50, October 19, 1984, establishes standards and procedures for the disposition of requests for extraordinary contractual adjustments by NASA contractors.

§ 1209.302 Establishment of Board.

The Board was established on May 15, 1961, and is continued in effect by NASA Management Instruction (NMI) 1152.5 and this regulation.